

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:03cr120WS
SECOND SUPERSEDING INDICTMENT

PAUL S. MINOR,
JOHN H. WHITFIELD,
OLIVER E. DIAZ, JR.,
JENNIFER DIAZ,
and
WALTER W. "WES" TEEL

MOTION AND ORDER OF DISMISSAL ON SECOND SUPERSEDING INDICTMENT

On August 16, 2005, following a trial on the Second Superseding Indictment filed in this case on October 19, 2004, the jury returned verdicts of not guilty on all counts as to defendant Oliver E. Diaz, Jr., and not guilty verdicts on Counts 4, 6, 7, 8, 14, and 17 as to defendant Paul S. Minor, and a not guilty verdict on Count 5 as to defendant John H. Whitfield. The jury did not reach a verdict on the remaining counts of the Second Superseding Indictment as to defendants Minor, Whitfield and Teel.¹ Subsequently, the Grand Jury returned a Third Superseding Indictment, filed in this case on December 6, 2005, which proceeded to trial and which resulted in guilty verdicts on all counts against all defendants on March 31, 2007.

It has been brought to the government's attention that the counts of the Second Superseding Indictment upon which the jury was unable to reach a verdict against defendants Minor, Whitfield and Teel have never been formally dismissed. Accordingly, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of Court endorsed hereon, the United States Attorney for the Southern District of Mississippi hereby moves to dismiss the following counts of the Second Superseding Indictment in Criminal No. 3:03cr120WS against the defendants as follows:

¹ Defendant Jennifer Diaz entered a guilty plea in a separate case and did not proceed to trial on the Second Superseding Indictment. She was dismissed from the Second Superseding Indictment by Order of this Court entered on August 29, 2005 (document number 440).

As to defendant Paul S. Minor: Counts 1, 2, 3, 5, 9, 10, 12, and 16 of the Second Superseding Indictment.

As to defendant John H. Whitfield: Counts 2, 3, 4, and 11 of the Second Superseding Indictment.

As to defendant Walter W. "Wes" Teel: Counts 9, 10, and 15 of the Second Superseding Indictment.

Respectfully submitted,

DUNN LAMPTON
United States Attorney

By: /s/ **Ruth R. Morgan**
Ruth R. Morgan
Assistant United States Attorney

Leave of Court is granted for the filing of the foregoing dismissal.

ORDERED this 31st day of October, 2007.

s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE

Criminal No. 3:03cr120WS

Motion and Order of Dismissal on Second Superseding Indictment